

Funding for Trial Court Information Technology Support

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**The Florida House of Representatives
Marco Rubio, Speaker**

Introduction

Section 28.24(12)(e)1., F.S. provides for a \$4 per page recording fee for certain documents filed with the clerk of court. The \$4 service charge is evenly divided between the counties and the clerks of court to be used for court technology needs of the clerks and courts. The Legislature created this revenue source to assist the counties in their court funding requirements under Revision 7 to Article V of Florida's constitution.

When this funding source was enacted in 2004, the fiscal impact of this dedicated revenue source was projected to be approximately \$108 million. Fiscal Year 2005-06 figures, the most current data reported, illustrates that the total revenue from the recording fee generated \$164.4 million. By comparison, approximate information technology (IT) expenditures captured by the five biggest state agency spenders of IT dollars during the same period ranged from \$95 million to \$335 million – averaging \$160 million per each of the five agencies. It should also be noted that statewide IT spending by all agencies in FY 2005-06 averaged \$41 million per agency.

One could draw the conclusion that the recurring funding generated from this \$4.00 fee might appear to be high, or at least sufficient for a top-notch IT system. One could also surmise that this level of funding is commensurate with other agency statewide systems. This white paper examines the state of IT support services for the trial courts and associated entities and the effectiveness of their dedicated revenue source. Possible options available for Members to pursue are also identified at the conclusion.

Background

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. According to the ballot summary, Revision 7 “allocates state court system funding among state, counties, and users of courts.” Article V, section 14(c) provides that the Supreme Court and the District Courts of Appeal are fully funded by the state. The trial courts, the circuit and county courts, are jointly funded by the state and counties. Article V, section 14(b) provides that:

[a]ll funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided ..., shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law.

Ensuring that Revision 7 was fully effectuated by July 1, 2004, the Legislature passed two major pieces of legislation that defined and provided the statutory and funding framework for the state courts system and its essential support elements. That framework placed upon counties, in addition to any local requirements, responsibility for the cost of

facilities for the trial courts and the offices of the state attorney and public defender, including the costs of construction, leasing, maintenance, security and utilities.¹ Counties are also responsible for the cost of “communication services,” whose definition in s. 29.008, F.S., includes computer systems and equipment, including computer hardware and software, and network connections ... necessary for an integrated computer system to support the court system.

As partners in this funding, the Legislature provided the counties an additional funding stream for court-related technology pursuant to s. 28.24(12)(e)1., F.S. Specifically, the statute provides for a \$4.00 per page additional recording fee for certain documents filed with the clerk of court. The \$4 service charge is divided as follows:

- \$1.90 is retained by the clerk for funding its court-related technology needs;
- 10 cents goes to Florida Association of Court Clerks and Comptroller, Inc., for the cost of the clerk’s Comprehensive Case Information System; and
- \$2.00 goes to the respective boards of county commissioners to be used exclusively for the funding of court-related technology, and court technology needs.

Accounting & Reporting

Clerk of the Court

The \$4 fee is collected by the clerks of the court, depositing \$1.90 in the clerk’s Public Records Modernization Trust Fund and remitting the remaining balance directly to the counties and the Florida Association of Court Clerks and Comptrollers, Inc.

There is no specific reporting or accountability requirements for the clerks regarding the \$1.90 fee, but the clerks are required by s. 28.24 (12), F.S., to submit an itemized expenditure report to the Legislature regarding the Public Records Modernization Trust Fund when the trust fund comes up for Legislative review.² Section 28.24, F.S., also prescribes numerous other fees the clerks of the court must collect for services, such as recording documents and instruments, as well as other court-related functions where revenues are deposited into this trust fund.

According to the Florida Association of Court Clerks and Comptrollers, Inc., the total revenue from the \$1.90 for the clerks of the court was \$71.7 million in FY 2004-05 and \$81.1 million in FY 2005-06; and the total revenue from the 10 cents for the association was \$3.8 million in FY 2004-05 and \$4.3 million in FY 2005-06.

Counties

¹ In 2007 regular session, the Legislature created five offices of criminal conflict and civil regional counsel. These offices were added to the enumerated list of county funded court expenses found in s. 29.008, F.S. *See* s. 19, ch. 2007-62, L.O.F.

² Pursuant to the state constitution, trust funds terminate four years after the effective date authorizing the initial creation of the trust fund. *See* s. 19(f)(2), Art. III, Fla. Const.

The remaining \$2 is distributed to the counties. Currently, the Public Defenders, State Attorneys, Guardian Ad litem, and the Courts submit budget requests for IT funding to the various boards of county commissioners. The county commissions then determine how the funding is distributed among those entities.

Section 29.008(4)(a), F.S., provides that the “Department of Financial Services shall review county expenditure reports required under s. 29.0085 for the purpose of ensuring that counties fulfill the responsibilities of this section.” In general, counties will have met their obligations if expenditures for the items specified in s. 29.008(1)(a)-(h), F.S., have increased by 1.5 percent or more over the prior county fiscal year. The initial review, comparing county fiscal year 2005-06 to county fiscal year 2004-05 was recently completed.

The Department of Financial Services (DFS) reported in the Statement of County Funded Court-Related Functions for FY 2005-06 that the \$2.00 county portion of this \$4.00 fee generated \$78,968,943 for the fiscal year ending September 30, 2006.^{3 4}

Stakeholders

Staff held several independent meetings with court technology stakeholders to obtain information on statewide systems and applications, and gain an understanding of their technology and the degree of existing integration.⁵ Also participating in this project were staff from the Department of Financial Services.

Of the \$4.00, the Clerks are required to retain \$1.90 to be used exclusively for funding their court-related technology needs. According to the Clerks, the \$1.90 has produced sufficient revenue for the funding of Clerk’s court-related technology thereby relieving the county and the state from the need to fund those local costs. It has provided Clerks the ability to upgrade their court-related systems and accommodate new statutory and court requirements.

Ten cents of each \$4.00 collection is required to be distributed to the Florida Association of Court Clerks and Comptrollers, Inc. (FACC) for the development, operations and maintenance of the clerks’ Comprehensive Case Information System (CCIS). CCIS is a secure, single point of search for statewide court case information through the MyFloridaCounty.com portal, available 24 hours a day, 7 days a week. According to the clerks, the ten cents has provided sufficient funding for FACC to develop CCIS.

³ Theoretically then, the total amount generated by the \$4.00 fee for this period should have been \$157.9 million.

⁴ The Department of Financial Services’ review showed that, in total, the counties increased their spending by substantially more than 1.5 percent over the prior fiscal year for court-related technology needs as defined in s. 29.008(1)(f)2. and (h), F.S.

⁵ Stakeholders included representatives of the clerks of the court, state attorneys, public defenders, Office of the State Courts Administrator, a Chief Judge, Guardian Ad Litem, the Florida Association of Counties and the Florida Association of Court Clerks and Comptrollers, Inc.

In evaluating the current process for requesting funds for IT support from the counties, several of the stakeholders agreed that they were receiving adequate IT support and the current level of funding was sufficient for them to operate. Their satisfaction and support for the current process was for various reasons:

- Provides statewide access to case information through a secured, single point of access to case information collected and maintained by the Clerks of the Court.
- Reduces barriers associated with multi-jurisdictional sharing of court case information.
- Reduces resources devoted to manipulation, storage and retrieval of case information, reduces errors, and improves overall efficiency.
- Accommodates the users in being able to adapt to constant changes to maintain quality and efficiencies.
- Provides for decisions (particularly approval of the use of IT funds) to be expedited because of the funding at the local level.
- Allows decision to be made on the local level which ensures coordination of information systems with local and state law enforcement.

The Florida Prosecuting Attorneys Association surveyed its membership and found unanimous satisfaction with the funding as well as the funding process.

According to the Public Defenders, the most important advantage is that it is a dedicated, recurring fund source. Information technology constantly requires changes to maintain quality and efficiencies and this fund source facilitates this effort. Further, the Public Defenders stated this source of funding allows for decisions to be made at the local level which ensures coordination of information systems with local and state law enforcement. Decisions are made more quickly because of the local funding source.

Some stakeholders concluded that there are on-going challenges with defining an integration system and what is adequate funding. Some examples are:

- The reporting of revenue collected by the clerks to the Department of Financial Services raises questions.
- The current methodology used to track expenditures and revenue lacks consistency between counties.
- The current reporting does not track the revenue to the expenditures related to funding source or to a particular entity.
- Lack of statewide information or data available on the trial courts makes it difficult to assess performance.

The courts have expressed concerns with funding decisions being made at the county level. The courts believe multi-county circuits are at a disadvantage in that the \$2 fee

that counties receive cannot be pooled to fund circuit-wide systems to support the courts. Indeed, fifteen of the twenty judicial circuits are multi-county circuits.⁶

Post Revision 7 Proposals

There have been some efforts to review technology issues since enactment of Revision 7. In 2004, the Legislature created the Article V Technology Board.⁷ Specifically, the Board was tasked with “propos[ing] an operational governance structure to achieve and maintain the necessary level of integration among system users at both the state and judicial circuit levels”⁸

The Board’s report, issued in January 2006, recommended establishing a statewide governing board and separate, individual judicial circuit governing boards. Additionally, the report recommended changing county level administration of the \$2 fee to a judicial circuit level administration by means of a joint committee composed of the chief judge, state attorney and public defender.⁹ These recommendations attempt to address the inter-county technology issues facing multi-county circuits that state court representatives discussed with staff during interim meetings.¹⁰

A few legislative proposals surfaced as well. House Bills 5029 and 7235 were proposed committee bills in 2006. These bills incorporated recommendations from the Article V Technology Board’s report relating to the challenge to effectively implement legislative intent for IT funding in the state court system in multi-county circuits. Specifically, the bills:

- ❖ Created Judicial Circuit Article V Technology Advisory Councils (HB 7235) in each judicial circuit and chaired by the chief judge or his/her designee. Their membership includes the state attorney, public defender, a Florida Bar representative, the local sheriff, the clerk of court, and a county representative. The councils are responsible for developing an initial judicial circuit technology strategic plan and subsequent updated judicial circuit technology strategic plans to address court-related technology needs as defined in s. 29.008(1)(f)2. and (h), F.S. The plans also address promoting data integration and access among court system stakeholders.

⁶ The five single-county circuits include Dade County (11th Circuit), Hillsborough County (13th Circuit), Palm Beach County (15th Circuit), Monroe County (16th Circuit) and Broward County (17th Circuit).

⁷ See s. 29, ch. 2004-265, Laws of Florida and s. 29.0086, F.S. By its own terms the Board was repealed effective July 1, 2006.

⁸ See s. 29.0086(5), F.S. (2006)

⁹ See <http://articlevtechboard.state.fl.us/media/Final%20Report-January%2010,%202006.pdf> (last visited December 7, 2007).

¹⁰ It should be noted, however, that the Board’s findings and recommendations were not focused specifically on this revenue stream, but rather various important IT issues to “integrate...disparate information systems at a level never before achieved,” e.g., data exchange, security and access protocols, infrastructure and network standards and common data elements. Interestingly, the Board recommended state funding in addition to this revenue stream.

- ❖ Created the Court Technology Trust Fund (HB 5029) to which the \$2 fee under s. 28.24, F.S. is redirected. Beginning April 1, 2007, the bill would authorize the fee to be disbursed as grants-in-aid to counties if the counties agreed to use the funds to implement the judicial circuit technology strategic plan previously developed by the advisory councils and approved by the chief judge.

Both bills passed the House on May 1, 2006, with overwhelming support.¹¹ However, both bills subsequently died in Senate Messages.

In 2007 regular session, SB 2062 addressed the fee for technology issue also. The bill redistributed the \$2 fee in s. 28.24(12)(e)1., F.S. from the board of county commissioners to a fund established in the principal county of the circuit. The principal county, designated by the chief judge, is required to use the funds to implement the judicial circuit's technology strategic plan. This plan must be approved by the chief judge and must address the court-related technology needs of each county in the circuit. SB 2062 died in the Senate Judiciary Committee. There was no true House companion bill filed.

Summary

To be sure, questions about the data exist and efforts are underway to refine the reporting process. For example, there is a discrepancy in what the clerks report in revenue when compared to revenues reported by the counties. As noted earlier, DFS reported county revenues of \$79.0 million for FY 2005-06. Theoretically then, the total amount generated by the \$4.00 fee for this period should have been \$157.9 million after accounting for both the counties' and the clerks' portions. The clerks, however, reported revenues of \$85.4 million in that same period, not \$79.0 million. DFS, however, continues to work with the counties on reporting their revenue and expenditure data so as to gain a higher confidence level in final, audited numbers. This includes establishing new accounting codes and providing detailed descriptions of how the numbers should be recorded. These issues highlight critical areas of concern which require addressing before greater reliability can be placed in the court-related technology fiscal picture. This system has not been in place long enough to establish trends with credible data to illustrate whether this dedicated revenue stream is sufficient, too high or too low, and such information could be a few years off.

Furthermore, the stakeholders are largely in agreement that the system, at present day and in its current form, is not broken, but provides for their technology needs. There is also a general acknowledgement that capturing the revenue and expenditure data must continue to be refined.

¹¹ HB 7235, after passing through Judiciary Appropriations Committee and the Fiscal Council, passed the House on a 115-4 vote. HB 5029 originated as a proposed committee bill out of the Fiscal Council and passed the House with a 116-1 vote.

Options

Options for the Legislature to consider include:

1. Maintain the status quo.
2. Encourage further discussions and work among DFS and the stakeholders to gain greater accountability, and consistency in reporting (including both revenue and expenditure details). Interlocal agreements should also be fostered in multi-county circuits where deemed appropriate.
3. Codify accountability and reporting requirements.
4. File legislation similar to previously filed bills, reorganizing the current structure and decision-making process relating to information technology needs, strategies and funding priorities.